

UNITED STATES OF AMERICA)
)
 vs.) ORDER
)
 RANDOLPH HARRIS AUSTIN)
 _____)


The defendant is awaiting sentencing following a jury verdict finding him guilty of conspiracy and attempt to possess cocaine with intent to distribute. (Doc. No. 117: Jury Verdict). In the motion and letter, the defendant does not identify any new evidence which might exonerate him, but rather alleges that his counsel, prior to trial, did not allow him to listen to a recording made during a drug transaction between him and an undercover police officer. (Doc. No. 119: Motion at 2; Doc. No. 120: Letter at 2-3). Thus, the defendant simply disputes the jury's conclusion that he participated in the offense with a claim that the government "staged and manufactured" the recording. (Doc. No. 120: Letter at 3). Based on the other evidence of the defendant's guilt introduced at the trial, the Court finds that this allegation is not credible and that a new trial on that basis would not be in the interest of justice. Fed. R. Crim. P. 33 (a).

¹The motion is titled “Defendant’s Motion to Appeal Guilty Verdict” below the caption. (Doc. No. 119).

IT IS, THEREFORE, ORDERED, that the defendant's Motion for a New Trial (Doc. No. 119) is DENIED.

The Clerk is directed to certify copies of this order to the defendant, counsel for the defendant, to the United States Attorney.

Signed: December 22, 2006


Robert J. Conrad, Jr.
Chief United States District Judge

